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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/699,617	10/30/2003	James A. Kahkoska	F-328	9962
802	7590	05/03/2006	EXAMINER	
DELLETT & WALTERS P. O. BOX 82788 PORTLAND, OR 97282-0788			NGUYEN, JIMMY	
			ART UNIT	PAPER NUMBER
			2829	

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/699,617

Applicant(s)

KAHKOSKA ET AL.

Examiner

Jimmy Nguyen

Art Unit

2829

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 13 - 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 13-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### Response to Argument

The applicant's argument has been found persuasive, however upon further search the examiner is making new ground of rejection.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 – 6, 8 - 10, 13 – 18, 20 - 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al (US 2003/0071634).

**As to claim 1**, Johnson et al disclose ( fig 1) a toner/probe system, comprising:  
a toner (12) adapted to generate and supply a tone packet to a cable under test (test cable, paragraph 24); and  
a probe (14) adapted to detect said tone packet as propagated via the cable under test (test, cable).

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**As to claims 2, 14,** Johnson et al disclose ( fig 1) a toner/probe system according to claim 1, wherein said tone packet comprises:

a synchronization portion (31); and  
a data portion (29, 23).

**As to claims 3, 15,** Johnson et al disclose ( fig 1) a toner/probe system according to claim 2, wherein said data portion (29,23) comprises plural portions providing different testing modes.

**As to claims 4, 16,** Johnson et al disclose ( fig 1) a toner/probe system according to claim 3, wherein testing modes are selected from the group consisting of:  
A cable isolate mode and a cable locate mode.

**As to claims 5, 17,** Johnson et al disclose ( fig 1) a toner/probe system according to claim 3, wherein said testing mode comprises a wire continuity test mode for location one or more wires separately from other wires.

**As to claims 6, 18,** Johnson et al disclose ( fig 1) a toner/probe system according to claim 3, wherein testing mode comprises a wire map mode.

**As to claims 8, 9,** Johnson et al disclose ( fig 1) a system according to claim 1, wherein toner (12) comprises a selector (20) for selecting an operation mode (the oscillator must has the selector to select different frequency).

**As to claim 10,** Johnson et al disclose ( fig 1) a system according to claim 1, wherein said probe comprises a detector (14) for detecting said tone packet and operatively responding to portions thereof.

**As to claim 13,** Johnson et al disclose ( fig 1) a method for locating a cable, comprising the steps of  
applying a tone packet (12) to a cable (test cable) at one position thereof; and  
employing a sensor (14) responsive to said tone packet to locate said cable (cable under test) at another position thereof.

**As to claims 20, 21,** Johnson et al disclose ( fig 1) the tone packet employs a carrier signal as at least part of said tone packet.

**As to claims 22, 25,** Johnson et al disclose ( fig 1) a toner wherein carrier signal is turned on and off at an audio frequency rate.

**As to claims 23, 26,** Johnson et al disclose ( fig 1) a toner (12) wherein audio frequency rate is 1khz or 2 khz .

**As to claim 24**, Johnson et al disclose ( fig 1) a toner wherein tone packet comprises plural quanta.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al (US 2003/0071634).

**As to claims 7, 19**, Johnson et al disclose ( fig 1) disclose the toner or transmitter supply 30 – 100 khz . It would have been obvious to one having ordinary skill in the art at the time of the invention was made to apply, toner supplies a 455Khz (vary different frequency) carrier signal as at least part of tone packet, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (ccpa 1980)


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy Nguyen whose telephone number is 571-272-1965. The examiner can normally be reached on M-F from 9 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ramtiaz Nestor, can be reached on 571-272-2034. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JN.  
4/ 28/2006

  
VINH NGUYEN  
PRIMARY EXAMINER  
A.U. 2829  
04/28/06